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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/556,829	11/15/2005	Wolfgang Ens	2033P06449WOUS	1656

22116 7590 11/15/2007  
SIEMENS CORPORATION  
INTELLECTUAL PROPERTY DEPARTMENT  
170 WOOD AVENUE SOUTH  
ISELIN, NJ 08830

EXAMINER
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FAYYAZ, NASHMIYA SAQIB

ART UNIT	PAPER NUMBER
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2856

MAIL DATE	DELIVERY MODE
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11/15/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/556,829

Applicant(s)

ENS ET AL.

Examiner

Nashmiya S. Fayyaz

Art Unit

2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 5-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/15/05</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 5-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over KumpfmueLLer-US Patent # 6,530,277. As to claim 5, 9, 13 and 14, as best understood, KumpfmueLLer discloses a diagnostic system and method for valve 2 of a pump including a structure borne noise sensor 12 including recording a signal (recorded sound spectrum) when the valve is closed and a second signal when the valve is open (body sound spectrum), an evaluation device (device 14) for evaluating the condition/state of the valve and signal output (data interface 11) and further, an additional noise spectrum in another valve position is

recorded, note col. 3, lines 4-35 and fig. 1. Further, it is noted that Kumpfmüller employs the signals from the same valve and fails to indicate usage of a pre-determinable threshold. However, in claims 5 and 13, it would have been obvious to one of ordinary skill in the art at the time of the invention to have either used two successive signals of a single valve or a single signal from two valves taken simultaneously to accomplish the same effect of canceling background noises as discussed in col. 3, lines 20 et seq. since both expediciencies are known for noise cancellation. Further, in claims 5, 9 and 13, although Kumpfmüller does not specifically recite a threshold, it would have been obvious to one of ordinary skill in the art at the time of the invention to have recognized that when the comparison of the signals is done, they will not be exact and some that threshold level will be existent in order to identify the fault. As to claims 6 and 10, usage of the last sound signal is inherent since the additional structure borne signal is recited as taken for "each recording of a structure-born noise spectrum". As to claims 7 and 11, note col. 2, lines 7-21 indicating the noises are pump noises. As to claims 8 and 12, note the recitation in col. 2, lines 59 to col. 3 for evaluating the state of the valve.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 5-12 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claims 5 and 9, it is unclear how the system comprises "a first value" and "a second value". These recitations do not support features of a system but rather a computer program. In claim 14, if there is a first and second valve, it is unclear how they can be the same valve.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The additional prior art cited on PTO-892 include other devices performing similar diagnosis on valves by comparison of different valve state signals.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nashmiya S. Fayyaz whose telephone number is 571-272-2192. The examiner can normally be reached on Mondays and Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron E. Williams can be reached on 571-272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



NFayyaz  
Examiner  
Art Unit 2856

nf  
11/7/07

HEZRON WILLIAMS  
SUPERVISORY PATENT EXAMINER  
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